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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,426	08/29/2001	Peter R. Horsfall	P/692-152	7416

7590 09/20/2007  
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EXAMINER
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AKINTOLA, OLABODE

ART UNIT	PAPER NUMBER
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3691

MAIL DATE	DELIVERY MODE
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09/20/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/942,426	<b>Applicant(s)</b> HORSFALL, PETER R.	
	<b>Examiner</b> Olabode Akintola	<b>Art Unit</b> 3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10,13-17,21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10,13-17,21 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. <u>9/14/07</u>                              |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application  |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                           |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of Group I (claims 1-10, 13-17 and 21-22) in the reply filed on 6/21/2007 is acknowledged.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this

application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-2, 8-9, 13-14 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 8, 22, 30, 37, 48, 59, 62-64 of Mills (USPN7024386) in view of Gilbert et al (US 20030088499) and further in view of Usrey (USPN 6366890).

Re claims 1-2, 8-9, 13-14: Mill teaches computerized trading system for trading instruments between trading parties, comprising: a communications network for transmitting electronic messages; a plurality of trader order input terminals connected to the communications network, each for inputting orders into the system and for generating electronic orders including bid and/or offer orders and for communication to traders of order information received from other input terminals over the network; at least one matching engine computer connected to the network for matching bid and offer orders input into the system from the order input devices and for selectively executing deals where prices are matched; and one or more market distributor computers connected to the network for distributing order information to the order input terminals, the one or more market distributor computers being responsive to the order information and the matching engine computer, (col. 15, lines 61-col. 16, line 59 {claims 1 & 8}).

Mills do not explicitly teach at least one broker order input terminal connected to the communications network for inputting orders into the system and for generating electronic orders including bid and/or offer orders on behalf of a selected one of a plurality of client traders and for communication to a broker of order information received from other input terminals over the

network; the one or more market distributor computer also distributing to the order input terminals an indication of the amount of the market in the instrument being traded that has been input from the at least one broker order input terminal.

Gilbert teaches at least one broker order input terminal connected to the communications network for inputting orders into the system and for generating electronic orders including bid and/or offer orders on behalf of a selected one of a plurality of client traders and for communication to a broker of order information received from other input terminals over the network (section 0008, 0026, 0035). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Mills to include this broker terminal. One would have been motivated to do so in order to distinguish a trader terminal from a broker terminal for inputting bid on behalf of traders.

Usrey teaches an indication of the amount of the market that has been input from a terminal (fig. 15, 'pie chart': col. 11, lines 41-59). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Mills to include this feature. One would have been motivated to do so for informational and statistical purposes.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-10, 13-14 are rejected under 35 U.S.C. 103(a) as being obvious over Mills (USPN7024386) in view of Gilbert et al (US 20030088499) and further in view of Usrey (USPN 6366890).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(I)(1) and § 706.02(I)(2).

Art Unit: 3691

Re claims 1, 8 and 13: Mill teaches computerized trading system for trading instruments between trading parties, comprising: a communications network for transmitting electronic messages; a plurality of trader order input terminals connected to the communications network, each for inputting orders into the system and for generating electronic orders including bid and/or offer orders and for communication to traders of order information received from other input terminals over the network; at least one matching engine computer connected to the network for matching bid and offer orders input into the system from the order input devices and for selectively executing deals where prices are matched; and one or more market distributor computers connected to the network for distributing order information to the order input terminals, the one or more market distributor computers being responsive to the order information and the matching engine computer, (col. 15, lines 61-col. 16, line 59).

Mills do not explicitly teach at least one broker order input terminal connected to the communications network for inputting orders into the system and for generating electronic orders including bid and/or offer orders on behalf of a selected one of a plurality of client traders and for communication to a broker of order information received from other input terminals over the network; the one or more market distributor computer also distributing to the order input terminals an indication of the amount of the market in the instrument being traded that has been input from the at least one broker order input terminal.

Gilbert teaches at least one broker order input terminal connected to the communications network for inputting orders into the system and for generating electronic orders including bid and/or offer orders on behalf of a selected one of a plurality of client traders and for communication to a broker of order information received from other input terminals over the network (section 0008, 0026, 0035). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify

Art Unit: 3691

Mills to include this broker terminal. One would have been motivated to do so in order to distinguish a trader terminal from a broker terminal for inputting bid on behalf of traders.

Usrey teaches an indication of the amount of the market that has been input from a terminal (fig. 15, 'pie chart': col. 11, lines 41-59). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Mills to include this feature. One would have been motivated to do so for informational and statistical purposes.

Mills in view of Gilbert in view of Usrey, hereinafter referred to as "Modified Mills".

Re Claim 2: Modified Mills teaches a credit store for storing an indication of credit available for trades between each trading party trading via one of the plurality of trader order input devices, whereby deals are executed automatically by the matching engine if sufficient credit for the deal exists between the counterparties, the credit limit further including an indication of whether credit is available for trades between a trading party trading via the broker order input device and a counterparty, the system further comprising a message generator for sending a message to the broker order input device and the order input device of a counterparty to a proposed deal, the deal confirmation message identifying the counterparty to the proposed deal and requesting confirmation from each counterparty that they wish to proceed with the deal (Mills: col. 16, lines 12-14; col. 8, lines 52-56; Figs 2-5).

Re Claim 3: Modified Mills teaches a credit filter arranged to filter the order information to each order input device to distinguish information relating to orders with which the party represented by the order input device has sufficient credit to trade at least a portion of the order amount, and wherein the at least one broker order input device can select a given one of the plurality of the client traders



Art Unit: 3691

whereby the order information displayed at the broker orders input device is filtered to distinguish dealable order information for the party of the selected client trader (Mills: col. 2, lines 1-5; col. 4, line 65- col. 5, line 1).

Re Claim 4: Modified Mills teaches broker order input device is configurable to display order information relating to all orders submitted to the system (Mills: col. 4, line 34-45; Gilbert: section 0008, 0026, 0035).

Re Claims 5 and 14: Modified Mills teaches broker order input device is connected to a network node, the network node being arranged to submit order information from the broker order input device to the matching engine and to receive order information from other order input devices for communication to the broker order input device (Mills: col. 20, line 66-col. 21, line 15; Gilbert: section 0008, 0026, 0035).

Re Claim 6: Modified Mills teaches broker order input device includes means for inputting into the system, details of trades conducted outside the system with other brokers (Mills: col. 5, lines 19-31; Gilbert: section 0008, 0026, 0035).

Re Claim 7: Modified Mills teaches trader order input devices include means for disclosing the identity of a party to a trade to the broker order input device before a trade is agreed upon (col.8, lines 62-64).

Art Unit: 3691

Re Claim 9: Modified Mills teaches instruments traded are financial instruments (Mills: col. 4, lines 5-14).

Re Claim 10: Modified Mills teaches the financial instruments are Forward Rate Agreements (FRAs) (Mills: col. 4, lines 5-14).

Re claim 15: Modified Mills teaches each broker input terminal appears the same as a trader input terminal to the network (Gilbert: section 0008, 0026, 0035).

Re claims 16 and 21: Modified Mills teaches plurality of client traders comprise voice traders (Mills: col. 4, lines 34-46).

Re claims 17 and 22: Modified Mills teaches wherein electronic orders generated by the at least one order input terminal are owned by the broker (Gilbert: section 0008, 0026, 0035).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 3691

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olabode Akintola whose telephone number is 571-272-3629.

The examiner can normally be reached on M-F 8:30AM -5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OA

A handwritten signature in black ink, appearing to read 'Hani M. Kazimi', is written over a horizontal line.

HANI M. KAZIMI  
PRIMARY EXAMINER